

# **EXHIBIT 4**



Squire Patton Boggs (US) LLP  
One Atlantic Center  
1201 W. Peachtree Street, NW  
Suite 3150  
Atlanta, Georgia 30309

O +1 678 272 3200  
F +1 678 272 3211  
squirepattonboggs.com

Nancy L. Rowan  
T +1 678 272 3232  
nancy.rowan@squirepb.com

October 26, 2022

**VIA E-MAIL**

[sbloom@bloom-law.com](mailto:sbloom@bloom-law.com)  
Simon H. Bloom, Esq.  
Bloom Parham, LLP  
977 Ponce de Leon Ave, N.E.  
Atlanta, Georgia 30306

**Re: 2787 East Atlanta Road, Ellenwood, Georgia 30011**

Dear Mr. Bloom:

This correspondence is written in response to the Henry County Appeal Application submitted by South Battery Capital LLC ("South Battery").

According to your correspondence, the basis of your appeal are as follows:

- 1) Mr. Kirk's position that the Board of Commissioner's interpretation of the ULDC as relating to the use of the Property for self-storage, and
- 2) Mr. Kirk's position that the Board of Commissioner's "clarification of ULDC-AM-22-05, amending Henry County Code of Ordinances Section 4.05.06, on September 7, 2022, prevents the property from being used as self-storage.

The Uniform Land Development Code ("ULDC") sets forth the procedures for receiving, reviewing, and rendering decisions on applications for subdivisions, multifamily and nonresidential development, mixed use development, planned developments, rezoning, and permits. Under the ULDC, "the Board of Commissioners shall hear and decide appeals where it is alleged by the appellant that there is an error in any approval, denial, written interpretation, or decision made by the zoning advisory board (ZAB) or the planning and zoning, building or environmental compliance/plan review departments, based on the interpretation or enforcement of the ULDC." *See* Sec. 12.04.00 (a) of ULDC. "Only persons or entities that have legal standing in the challenged action shall be permitted to file an appeal under this code section." *See* Sec.

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12.04.00 (c) of ULDC. In zoning cases, in order to have legal standing, one must establish a valuable interest in the property affected by the decision and establish special damages as a result which is not common to property owners similarly situated. *Victoria Corp. v. Atlanta Merchandise Mart*, 101 Ga. App. 163 (112 S.E.2d 793) (1960).

South Battery cannot file an appeal pursuant to Sec. 12.04.00 (a) of the ULDC. South Battery does not have a vested right in a prior version of the ULDC. As of today's date, South Battery has not applied for development, rezoning or requested a permit regarding self-storage in the Highway Corridor Overlay District which would establish a vested right in a prior version of the ULDC. Further, South Battery does not have any special damages, that has a legal basis, which is not common to property owners similarly situated. Because South Battery Capital does not have a vested property interest in a prior version of the ULDC and no legal standing, an appeal cannot be filed regarding this matter pursuant to Sec. 12.04.00 (a) of ULDC.

Further the accusation that County enacted an unlawful change of the ULDC to specifically harm South Battery is absurd and denied. I made a request to the Planning and Zoning Department to refund your three-hundred-dollar (\$300.00) appeal application fee.

I hope that this letter has afforded you sufficient information. If you require further assistance, you may contact me directly.

Sincerely,

Squire Patton Boggs (US) LLP

/s/ Nancy L. Rowan